



CALIFORNIA STATE PERSONNEL BOARD

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ARNOLD SCHWARZENEGGER, Governor



CALIFORNIA STATE PERSONNEL BOARD MEETING

801 Capitol Mall
Sacramento, California

Public Session Location –

**The Westin Los Angeles Airport Hotel
5400 West Century Boulevard
Logan Room
Los Angeles, CA 90045**

Teleconference – 320 West 4th Street
Los Angeles, California, Suite 620

Closed Session Location –

**The Westin Los Angeles Airport Hotel
5400 West Century Boulevard
Logan Room**

**Los Angeles, CA 90045
Teleconference – 320 West 4th Street
Los Angeles, California Suite 620**

SUMMARY MINUTES – FEBRUARY 7, 2006

SUMMARY MINUTES¹

FEBRUARY 7, 2006

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

1. ROLL CALL

Members present:

William Elkins, President
Sean Harrigan, Vice President
Maeley Tom, Member
Anne Sheehan, Member
Patricia Clarey, Member

2. REPORT OF THE EXECUTIVE OFFICER – Floyd D. Shimomura

- A.** Congratulations and welcome to Pat Clarey on her successful confirmation by the State Senate.
- B.** New ALJs have been hired to fill two vacancies.
- C.** At the March regular meeting we are planning a briefing on the Avian flu issue and how it might affect state personnel management.

3. REPORT OF THE CHIEF COUNSEL – Elise Rose

SPB has hired two new administrative law judges for its Sacramento Office. Mary Cote will start on February 21, and Gregory Brown on March 6, 2006. Mary comes to us from McGeorge School of Law, where she heard special education cases for 16 years. Gregory Brown has worked as a Staff Counsel for the Department of Health Services. Both come highly recommended and we are looking forward to working with them in the near future.

SPB Legal Division has been working with the Department of Personnel Administration in its drafting of a new PML memorandum regarding the impact of the recent Supreme Court Decision invalidating some of the post and bid provisions in the collective bargaining agreements pertaining to appointments and promotions as violative of the merit principle.

¹The Minutes for the Board can be obtained at the following internet address:
<http://www.spb.ca.gov/calendar.htm>

SPB Legal Division has been asked to draft a second article for the newsletter of the Labor and Employment Division of the California State Bar regarding its other Supreme Court victory in State Personnel Board v. Department of Personnel Administration, et al. which invalidated, as violative of the state constitution, collectively bargained processes for resolving disciplinary appeals through private arbitration and board of adjustments.

4. NEW BUSINESS

NONE PRESENTED

5. REPORT ON LEGISLATION – Sherry Hicks

The SPB has secured the Assembly Public Employees and Retirement Committee to carry legislation relating to skills based certification as it effects the Information Technology classifications.

6. ELECTION OF VICE PRESIDENT

On February 7, 2006 the Board unanimously elected Sean Harrigan to serve as the Vice President for calendar year 2006.

VOTE: Elkins, Harrigan, Tom, Sheehan, Clarey - Aye

7. INFORMATIONAL BRIEFING – In response to data trends indicated in the Annual Census of Employees in the State Civil Service report, State Personnel Board staff provided strategies and options for addressing specific areas of concern within an Equal Employment Opportunity framework.

- **Matilda Aidam, California State Personnel Board**

ACTION: NOTED

CLOSED SESSION OF THE STATE PERSONNEL BOARD

8. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, AND OTHER APPEALS

Deliberations to consider matter submitted at prior hearing.
[Government Code Sections 11126(d), 18653.]

9. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, AND OTHER APPEALS

Deliberations to consider matter submitted at prior hearing.
[Government Code Sections 11126(d), 18653.]

10. DELIBERATION ON ADVERSE ACTIONS, DISCRIMINATION COMPLAINTS, AND OTHER PROPOSED DECISIONS SUBMITTED BY ADMINISTRATIVE LAW JUDGES

Deliberations on matters submitted at prior hearing; on proposed, rejected, remanded, and submitted decisions; petitions for rehearing; and other matters related to cases heard by administrative law judges of the State Personnel Board or by the Board itself. [Government Code Sections 11126 (d), and 18653 (2).]

11. PENDING LITIGATION

Conference with legal counsel to confer with and receive advice regarding pending litigation when discussion in open session would be prejudicial. [Government Code sections 11126(e)(1) and 18653.]

State Personnel Board v. Department of Personnel Administration,
California Supreme Court Case No. S119498.

State Personnel Board v. California State Employees Association,
California Supreme Court Case No. S122058.

Connerly v. State Personnel Board, California Supreme Court,
Case No. S125502.

International Union of Operating Engineers v. State Personnel Board,
Public Employment Relations Board (PERB) Case No. SA-CE-1295-S.

State Compensation Ins. Fund v. State Personnel Board/CSEA,
Sacramento Superior Court No. 04CS00049.

SEIU Local 1000 (CSEA) v. State Personnel Board,
Sacramento Superior Court No. 05CS00374.

The Copley Press, Inc. v. San Diego Superior Court,
California Supreme Court No. S128603.

Union of American Physicians and Dentists v. Department of Corrections, et al.,
United States District Court, Northern District of California.

12. RECOMMENDATIONS TO THE LEGISLATURE

Deliberations on recommendations to the legislature.
[Government Code section 18653.]

13. RECOMMENDATIONS TO THE GOVERNOR

Deliberations on recommendations to the Governor.
[Government Code section 18653.]

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

**14. DISCUSSION OF COMING BOARD MEETING SCHEDULE OF
FEBRUARY 21, 2006, IN SACRAMENTO, CALIFORNIA**

NONE

BOARD ACTIONS:

**15. ADOPTION OF THE STATE PERSONNEL BOARD SUMMARY MINUTES OF
JANUARY 6, 2006**

ACTION: ADOPTED

VOTE: Elkins, Harrigan, Tom, Sheehan, Clarey - Aye

16. EVIDENTIARY CASES - (See Case Listings on Page 9 -15)

**17. RESOLUTION EXTENDING TIME UNDER GOVERNMENT CODE
SECTION 18671.1 EXTENSION - (See Minutes Page 20-21)**

18. NON-EVIDENTIARY CASES - (See Case Listings on Page 16-18)

19. NON-HEARING CALENDAR

The following proposals are made to the State Personnel Board by either the Board staff or Department of Personnel Administration staff.

On February 7, 2006, the Board took the following action on the following proposal as presented by Elise Rose, Chief Counsel, California State Personnel Board.

ACTION: ADOPTED

VOTE: Elkins, Harrigan, Tom, Sheehan, Clarey – Aye

A. BOARD ITEMS PRESENTED BY STATE PERSONNEL BOARD OR DEPARTMENT OF PERSONNEL ADMINISTRATION TO ESTABLISH, REVISE OR ABOLISH CLASSIFICATIONS, ALTERNATE RANGE CRITERIA, ETC.

PHYSICIAN AND SURGEON, CORRECTIONAL FACILITY (INTERNAL MEDICINE/FAMILY PRACTICE)

The California Department of Corrections and Rehabilitation (CDCR) proposes the establishment of a new class titled, Physician and Surgeon, Correctional Facility (Internal Medicine/Family Practice). The new class will meet the federal requirement that CDCR utilize physicians that are board eligible and/or board certified with a specialty in internal or family medicine. The new class will require a six-month probationary period, which is consistent with the existing Physician and Surgeon, CF, class. CDCR will continue to use the Physician and Surgeon, CF, so that it retains the ability to test for and appoint individuals with other, needed medical specialties.

PROPOSED AMENDMENT TO TITLE 2, CALIFORNIA CODE OF REGULATIONS § 433.1 – VOLUNTARY TRANSFERS BETWEEN CLASSES – Bargaining Unit 10 Employees

The California Association of Professional Scientists (CAPS) has requested changes to Title 2, California Code of Regulations (2CCR) § 433.1 – Voluntary Transfers Between Classes – Bargaining Unit 10 Employees, to delete the classes of Land and Water Use Analyst, Associate Land and Water Use Analyst, Textile Chemist I, and Textile Chemist II from the rule.

B. ABOLISHMENT OF CLASSES THAT HAVE HAD NO INCUMBENTS FOR MORE THAN TWO YEARS. DEPARTMENTS THAT UTILIZE THE CLASS AS WELL AS THE APPROPRIATE UNION HAVE NO OBJECTION TO THE ABOLISHMENT OF THESE CLASSES.

THE DEPARTMENT OF PERSONNEL ADMINISTRATION AND STATE PERSONNEL BOARD propose to abolish the following classifications which have been vacant for more than two years and have been designated Footnote 24, which specifies that a classification will be abolished when it becomes vacant.

NONE PRESENTED

20. STAFF CALENDAR ITEMS FOR BOARD INFORMATION

NONE PRESENTED

21. CAREER EXECUTIVE ASSIGNMENT (CEA) CATEGORY ACTIVITY

This section of the Minutes served to inform interested individuals and departments of proposed and approved CEA position actions.

A. REQUESTS TO ESTABLISH NEW OR REVISE EXISTING CEA POSITIONS CURRENTLY UNDER CONSIDERATION

CHIEF, COUNTY SUPPORT BRANCH, SYSTEMS OF CARE DIVISION

The Department of Mental Health proposes to allocate the above position to the CEA category. The Chief, County Support Branch is responsible for strategies and policies supporting critical consultation, technical assistance and training functions to counties covering a wide spectrum of local mental health services programs.

CHIEF, INVESTIGATIONS BRANCH, COMMUNITY CARE LICENSING DIVISION

The Department of Social Services proposes to allocate the above position to the CEA category. The Chief, Investigations Branch is responsible for managing and directing the activities of the centralized Investigations Branch responsible for meeting divisional investigative goals.

B. EXECUTIVE OFFICER DECISIONS REGARDING REQUESTS TO ESTABLISH NEW OR REVISE EXISTING CEA POSITIONS

ASSISTANT DEPUTY DIRECTOR, INFORMATION SERVICES DIVISION

The Department of Social Services has withdrawn their proposal to allocate the above position to the CEA category effective January 10, 2006.

CHIEF LEARNING OFFICER, TRAINING AND PROGRAM DEVELOPMENT

The California Department of Correction and Rehabilitation's proposal to allocate the above position to the CEA category has been approved effective January 10, 2006.

DIRECTOR, NON-TAX DEBT COLLECTION BUREAU

The Franchise Tax Board's proposal to allocate the above position to the CEA category has been approved effective January 10, 2006.

DEPUTY COMMISSIONER, CREDIT UNION DIVISION

The Department of Financial Institutions' proposal to allocate the above position to the CEA category has been disapproved effective January 10, 2006.

ACTION: NOTED

22. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, & OTHER APPEALS

Deliberations to consider matter submitted at prior hearing. [Government Code sections 11126(d), 18653.]

23. WRITTEN STAFF REPORT FOR BOARD INFORMATION

NONE PRESENTED

24. PRESENTATION OF EMERGENCY ITEMS AS NECESSARY

25. BOARD ACTIONS ON SUBMITTED ITEMS – (See Minutes - Page 19)

These items have been taken under submission by the State Personnel Board at a prior meeting and may be before the Board for a vote at this meeting. This list does not include evidentiary cases, as those are listed separately by category on this agenda under Evidentiary Cases.

A D J O U R N M E N T

16. EVIDENTIARY CASES

The Board Administrative Law Judges conduct evidentiary hearings in appeals that include, but are not limited to, adverse actions, medical terminations, demotions, discrimination, reasonable accommodations, and whistleblower complaints.

A. BOARD CASES SUBMITTED

These items have been taken under submission by the State Personnel Board at a prior meeting. Cases that are before the Board for vote will be provided under separate cover.

On February 7, 2006, the Board took the following action on the following cases as presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Elkins, Harrigan, Tom, Sheehan, Clarey - Aye

(1) **GARY GARFINKEL, CASE NO. 98-3128RBA**

Appeal for determination of back salary, benefits and interest

Classification: Deputy Attorney General IV

Department: Department of Justice

Proposed decision rejected July 13, 2005

Transcript prepare

Pending oral argument October 3, 2005, Sacramento

Oral argument continued

Oral argument heard November 1, 2005, San Diego

Case ready for decision by FULL Board

ACTION: The Board issued a non-precedential decision awarding appellant back pay and certain benefits for appellant's *Skelly* rights violation by the Department of Justice, and remanding the case back to the ALJ for further hearing on the issue of the health benefits owed to appellant.

B. CASES PENDING

ORAL ARGUMENTS

These cases would have been on calendar to be argued at this meeting or to be considered by the Board in closed session based on written arguments submitted by the parties.

NONE

C. CHIEF COUNSEL RESOLUTIONS

On February 7, 2006, the Board took the following action on the following cases as presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Elkins, Harrigan, Tom, Sheehan, Clarey - Aye

(1) DAVID CLARK, CASE NO. 02-1124

Appeal from dismissal

Classification: Physician and Surgeon, CF

Department: Department of Corrections and Rehabilitation

ACTION: The Board issued a resolution vacating its prior decision of December 16, 2005, approving a stipulation for settlement between the parties, and restoring the case to the Board's hearing calendar.

(2) AMANDA PEREZ, CASE NO. 04-1240

Appeal from suspension

Classification: Medical Technical Assistant, CF

Department: Department of Corrections and Rehabilitation

ACTION: The Board issued a resolution granting, in part, appellant's request for an Order to Show Cause against the Department of Corrections and Rehabilitation, and directing the Department to appoint appellant to a full-time, permanent Medical Technical Assistant position at Sierra Conservation Center.

(3) LINDA SAUCEDO, CASE NO. 02-2233

Appeal from reduction in salary

Classification: Program Technician II

Department: Department of Consumer Affairs

ACTION: The Board issued a resolution denying appellant's request for an Order to Show Cause against the Department of Consumer Affairs.

COURT REMANDS

These cases have been remanded to the Board by the court for further Board action.

(1) ERNESTINE FORREST, CASE NO. 00-1274

Appeal from dismissal

Classification: Corporations Counsel

Department: Department of Corporations

ACTION: On remand from the superior court, the Board issued a resolution vacating its prior decision on December 3-4, 2002, and directed the parties to brief the issue of the appropriate penalty to be imposed on appellant in light of the findings of the superior court.

(2) ANTHONY GUBLER, CASE NO. 03-2774

Appeal from dismissal

Classification: Officer

Department: Department of California Highway Patrol

ACTION: On remand from the superior court, the Board issued a resolution vacating its prior decision on January 11, 2005, and directed the parties to brief the issue of the appropriate penalty to be imposed on appellant in light of the findings of the superior court.

(3) CAROLYN HYMON-PERRY, CASE NO. 00-0140

Appeal from dismissal

Classification: Sergeant, CYA

Department: Department of the Youth Authority

ACTION: On remand from the superior court, the Board issued a resolution vacating its prior decision on August 5, 2003, and directed the parties to brief the issue of the appropriate penalty to be imposed on appellant in light of the findings of the superior court.

STIPULATIONS

These stipulations would have been submitted to the Board for Board approval, pursuant to Government Code, section 18681.

NONE

D. ADMINISTRATIVE LAW JUDGE'S (ALJ) PROPOSED DECISIONS

PROPOSED DECISIONS

These were ALJ proposed decisions submitted to the Board for the first time.

On February 7, 2006, the Board took the following action on the following cases as presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Elkins, Harrigan, Tom, Sheehan, Clarey - Aye

- (1) TROY ALLEN, CASE NO. 05-2105**
Appeal from dismissal
Classification: Caltrans Equipment Operator II
Department: Department of Transportation
ACTION: The Board rejected the ALJ's Proposed Decision dismissing the appeal. The Board will hear the case itself.
- (2) ERICK FESTA, CASE NO. 05-0891**
Appeal from two working days suspension
Classification: Motor Carrier Specialist I
Department: California Highway Patrol
ACTION: The Board adopted the ALJ's Proposed Decision sustaining the two working days suspension.
- (3) KATHLEEN MOYA, CASE NO. 05-0066**
Appeal from dismissal
Classification: Correctional Counselor I
Department: Department of Corrections and Rehabilitation
ACTION: The Board adopted the ALJ's Proposed Decision sustaining the dismissal.
- (4) CHARLES O'NEILL-JONES, CASE NO. 05-2123**
Appeal from non-punitive termination
Classification: Worker, Tunnels and Tubes
Department: Department of Transportation
ACTION: The Board adopted the ALJ's Proposed Decision sustaining the non-punitive termination.

- (5) **AL WOERLY, CASE NO. 04-2392**
Appeal from five percent reduction in salary for 12 months
Classification: Supervisor of Academic Instruction
Department: Department of Corrections and Rehabilitation
ACTION: The Board adopted the ALJ's Proposed Decision sustaining the five percent reduction in salary for 12 months.

Proposed Decisions Taken Under Submission At Prior Meeting

These would have been ALJ proposed decisions taken under submission at a prior Board meeting, for lack of majority vote or other reason.

NONE

PROPOSED DECISIONS AFTER BOARD REMAND

NONE

PROPOSED DECISIONS AFTER SPB ARBITRATION

NONE

E. PETITIONS FOR REHEARING

ALJ PROPOSED DECISIONS ADOPTED BY THE BOARD

The Board voted to grant or deny a petition for rehearing filed by one or both parties, regarding a case already decided by the Board.

On February 7, 2006, the Board took the following action on the following cases as presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Elkins, Harrigan, Tom, Sheehan, Clarey

- (1) **AARON FOUCH, CASE NO. 05-2526P**
Appeal from dismissal
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
ACTION: Appellant's petition for rehearing was granted in part by the Board.

- (2) **JIUN-YIH LIU, CASE NO. 05-0706P & 05-1374P**
Appeal from 60 days suspension & whistleblower retaliation complaint
Classification: Library Technical Assistant I
Department: California State Library
ACTION: Appellant's petition for rehearing was denied by Board.
- (3) **MICHAEL STONUM, CASE NO. 05-2534P**
Appeal from whistleblower retaliation
Classification: Battalion Chief
Department: Department of Forestry and Fire Protection
ACTION: Appellant's petition for rehearing was denied by Board.

WHISTLEBLOWER NOTICE OF FINDINGS

The Board would have voted to grant or deny a petition for rehearing filed by one or both parties, regarding a Notice of Findings issued by the Executive Officer under Government Code, section 19682 et seq. and Title 2, California Code of Regulations, section 56 et seq.

NONE

F. PENDING BOARD REVIEW

These cases were pending preparation of transcripts, briefs, or the setting of oral argument before the Board.

- (1) **RONALD FRANKLYN, CASE NO. 05-2105A**
Appeal from 20 working days suspension
Classification: Officer
Department: California Highway Patrol

Proposed decision rejected December 20, 2005
Pending transcript
NO ACTION
- (2) **ALEJANDRO GILL, CASE NO. 05-0054RA**
Appeal from dismissal
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation

Proposed decision rejected January 6, 2006
Pending transcript
NO ACTION

- (3) **RICK OCHOA, CASE NO. 04-2373B**
Appeal for determination of back salary, benefits and interest
Classification: Youth Correctional Officer
Department: Department of the Youth Authority

Proposed decision rejected January 24, 2006
Pending transcript
NO ACTION

- (4) **EDUARDO PEREZ, CASE NO. 05-0763A**
Appeal from five percent reduction in salary for six months
Classification: Parole Agent I (Adult Parole)
Department: Department of Corrections

Proposed decision rejected November 1, 2005
Pending transcript
Pending oral argument February 7-8, 2006, Los Angeles
Oral argument continued
NO ACTION

- (5) **ERNEST PITMAN, CASE NO. 05-1591A**
Appeal from dismissal
Classification: Motor Vehicle Field Representative
Department: Department of Motor Vehicles

Proposed decision rejected December 6, 2005
Pending transcript
Pending oral argument March 7-8, 2006, Sacramento
NO ACTION

- (6) **RICHARD QUADRELLI, CASE NO. 05-1039A**
Appeal from dismissal
Classification: Caltrans Maintenance Supervisor
Department: Department of Transportation

Proposed decision rejected December 6, 2005
Pending transcript
Pending oral argument March 7-8, 2006, Sacramento
NO ACTION

18. NON-EVIDENTIARY CASES

A. WITHHOLD APPEALS

Cases heard by a Staff Hearing Officer, a managerial staff member of the State Personnel Board or investigated by Appeals Division staff.

WITHHOLD FROM CERTIFICATION
CASES HEARD BY A STAFF HEARING OFFICER

NONE

WITHHOLD FROM CERTIFICATION
CASES NOT HEARD BY A STAFF HEARING OFFICER

On February 7, 2006, the Board took the following actions on the following cases as presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Elkins, Harrigan, Tom, Sheehan, Clarey – Aye

(1) DAVID BATTEN, CASE NO. 04-1848

Classification: Associate Information Systems Analyst

Department: Department of Transportation

Issue: Whether appellant was properly withheld for not meeting the Minimum Qualifications

ACTION: DENIED

(2) LISA CAMPBELL, CASE NO. 04-0937

Classification: Licensing Registration Examiner

Department: Department of Motor Vehicles

Issue: Suitability; failed to provide additional information requested by department.

ACTION: DENIED

B. MEDICAL AND PSYCHOLOGICAL SCREENING APPEALS

Cases would have been heard by a Staff Hearing Panel comprised of a managerial staff member of the State Personnel Board and a medical professional. The Board would have been presented recommendations by a Hearing Panel on each appeal.

NONE

**C. EXAMINATION APPEALS
MINIMUM QUALIFICATIONS
MERIT ISSUE COMPLAINTS**

Cases would have been heard by a Staff Hearing Officer, a managerial staff member of the State Personnel Board or investigated by Appeals Division staff. The Board would have been presented recommendations by a Staff Hearing Officer or Appeals Division staff for final decision on each appeal.

EXAMINATION APPEALS

NONE

MINIMUM QUALIFICATIONS

NONE

MERIT ISSUE COMPLAINTS

NONE

**D. RULE 211 APPEALS
RULE 212 OUT OF CLASS APPEALS
VOIDED APPOINTMENT APPEALS**

Cases would have been heard by a Staff Hearing Officer, or a managerial staff member of the State Personnel Board. The Board would have been presented recommendations by a Staff Hearing Officer for final decision on each appeal.

NONE

E. REQUEST TO FILE CHARGES CASES

Investigated by Appeals Division staff. The Board would have been presented recommendations by Appeals Division staff for final decision on each request.

On February 7, 2006, the Board adopted as indicate below the following decisions presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Elkins, Harrigan, Tom, Sheehan, Clarey – Aye

- (1) **ROBERT RIPANI, CASE NOS. 04-2197, 04-2435, 04-2483, 05-1138, 05-1697**
Classification: Supervisor
Department: Board of Equalization
Issue: The charging party requests charges are filed against the charged parties for violations of various subsections of Government Code section 19572.
ACTION: DENIED

PETITIONS FOR REHEARING CASES

- (2) **DAVID LIN, CASE NO. 05-0414P**
Classification: Cadet, California Highway Patrol
Department: California Highway Patrol
Issue: Whether SPB erred in upholding the withhold taken by the CHP.
ACTION: DENIED

SUBMITTED

1. TEACHER STATE HOSPITAL (SEVERELY), ETC.

Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002.)

NO ACTION

2. VOCATIONAL INSTRUCTOR (SAFETY)(VARIOUS SPECIALTIES)

Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002.)

NO ACTION

3. TELEVISION SPECIALIST (SAFETY)

The Department of Corrections proposes to establish the new classification Television Specialist (Safety) by using the existing Television Specialist class specification and adding "Safety" as a parenthetical to recognize the public aspect of their job, additional language will be added to the Typical Tasks section of the class specification and a Special Physical Characteristics section will be added. (Presented to Board March 4, 2003.)

NO ACTION

4. HEARING – Personal Services Contract #04-03

Appeal of the California State Employees Association from the Executive Officer's April 15, 2004, Approval of Master Contracts between the California Department of Corrections and Staffing Solutions, CliniStaff, Inc., Staff USA, Inc., CareerStaff Unlimited, MSI International, Inc., Access Medical Staffing & Service, Drug Consultants, Infinity Quality Services Corporation, Licensed Medical Staffing, Inc., Morgan Management Services, Inc., Asereth Medical Services, and PrideStaff dba Rx Relief. (Hearing held August 12, 2004.)

NO ACTION

5. HEARING

Proposed new and revised State Personnel Board Regulations effecting equal opportunity, discrimination complaints and reasonable accommodation policies and procedures. (Hearing held July 7, 2004.)

NO ACTION

6. GARY GARFINKLE, CASE NO. 98-3128RBA

Appeal for determination of back salary, benefits and interest. Deputy Attorney General IV. Department of Justice. (Oral Argument heard November 1, 2005)

ACTION: The Board issued a non-precedential decision awarding appellant back pay and certain benefits for appellant's *Skelly* rights violation by the Department of Justice, and remanding the case back to the ALJ for further hearing on the issue of the health benefits owed to appellant.

NOTICE OF GOVERNMENT CODE SECTION 18671.1 RESOLUTION

Since Government Code section 18671.1 requires that cases pending before State Personnel Board Administrative Law Judges (ALJ's) be completed within six months or no later than 90 days after submission of a case, whichever is first, absent the publication of substantial reasons for needing an additional 45 days, the Board hereby publishes its substantial reasons for the need for the 45-day extension for some of the cases now pending before it for decision.

An additional 45 days may be required in cases that require multiple days of hearings, that have been delayed by unusual circumstances, or that involve any delay generated by either party (including, but not limited to, submission of written briefs, requests for settlement conferences, continuances, discovery disputes, pre-hearing motions). In such cases, six months may be inadequate for the ALJ to hear the entire case, prepare a proposed decision containing the detailed factual and legal analysis required by law, and for the State Personnel Board to review the decision and adopt, modify or reject the proposed decision within the time limitations of the statute.

Therefore, at its next meeting, the Board will issue the attached resolution extending the time limitation by 45 days for all cases that meet the above criteria, and that have been before the Board for less than six months as of the date of the Board meeting.

GOVERNMENT CODE SECTION 18671.1 RESOLUTION

WHEREAS, Section 18671.1 provides that, absent waiver by the appellant, the time period in which the Board must render its decision on a petition pending before it shall not exceed six months from the date the petition was filed or 90 days from the date of submission; and

WHEREAS, Section 18671.1 also provides for an extension of the time limitations by 45 additional days if the Board publishes substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period; and

WHEREAS, the Agenda for the instant Board meeting included an item titled "Notice of Government Code section 18671.1 Resolution" which sets forth substantial reasons for utilizing that 45-day extension to extend the time to decide particular cases pending before the Board;

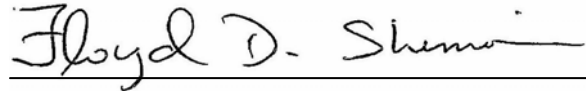
WHEREAS, there are currently pending before the Board cases that have required multiple days of hearing and/or that have been delayed by unusual circumstances or by acts or omissions of the parties themselves;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the time limitations set forth in Government Code section 18671.1 are hereby extended an additional 45 days for all cases that have required multiple days of hearing or that have been delayed by acts or omissions of the parties or by unusual circumstances and that have been pending before the Board for less than six months as of the date this resolution is adopted.

* * * * *

I hereby certify that the State Personnel Board made and adopted the preceding resolution at its meeting held on February 7, 2006.

VOTE: Elkins, Harrigan, Tom, Sheehan, Clarey – Aye

A handwritten signature in cursive script, reading "Floyd D. Shimomura", written over a horizontal line.

Floyd D. Shimomura
Executive Officer
California State Personnel Board